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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

**IN RE JUNIPER NETWORKS, INC.
SECURITIES LITIGATION**

No. C-06-04327-JW

**AMENDED STIPULATED
PROTECTIVE ORDER**

1. PURPOSES AND LIMITATIONS

Disclosure and discovery activity in this action are likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation would be warranted. Accordingly, the parties hereby stipulate to and petition the Court to enter the following Stipulated Protective Order. The Parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords extends

1 only to the limited information or items that are entitled under the applicable legal principles to
 2 treatment as confidential. The parties further acknowledge, as set forth in Section 10, below, that
 3 this Stipulated Protective Order creates no entitlement to file confidential information under seal;
 4 Civil Local Rule 79-5 sets forth the procedures that must be followed and reflects the standards
 5 that will be applied when a party seeks permission from the court to file material under seal.

6 **2. DEFINITIONS**

7 2.1 Party: any party to this action, including all of its officers, directors, employees,
 8 consultants, retained experts, and outside counsel (and their support staff). For purposes of this
 9 Protective Order only, “Party” shall include the defendant named in the related action *New York*
 10 *City Employee Retirement System, et al. v. Lisa Berry*, Case No. C08-0246-JW, and any of her
 11 employees, consultants, retained experts, and outside counsel (and their support staff).

12 2.2 Disclosure or Discovery Material: all items or information, regardless of the
 13 medium or manner generated, stored, or maintained (including, among other things, testimony,
 14 transcripts, or tangible things) that are produced or generated in disclosures or responses to
 15 discovery in this matter.

16 2.3 “Confidential” Information or Items: information (regardless of how generated,
 17 stored or maintained) or tangible things that qualify for protection under standards developed
 18 under Fed. R. Civ. P. 26(c).

19 2.4 “Highly Confidential – Attorneys’ Eyes Only” Information or Items: extremely
 20 sensitive “Confidential Information or Items” whose disclosure to another Party or non-party
 21 would create a substantial risk of serious injury that could not be avoided by less restrictive
 22 means.

23 2.5 Receiving Party: a Party that receives Disclosure or Discovery Material from a
 24 Producing Party.

25 2.6 Producing Party: a Party or non-party that produces Disclosure or Discovery
 26 Material in this action.

27 2.7 Designating Party: a Party or non-party that designates information or items that it
 28 produces in disclosures or in responses to discovery as “Confidential” or “Highly Confidential –

1 Attorneys' Eyes Only."

2 2.8 Protected Material: any Disclosure or Discovery Material that is designated as
3 "Confidential" or as 'Highly Confidential – Attorneys' Eyes Only.'

4 2.9 Outside Counsel: attorneys who are not employees of a Party but who are retained
5 to represent or advise a Party in this action.

6 2.10 House Counsel: attorneys who are employees of a Party.

7 2.11 Counsel (without qualifier): Outside Counsel and House Counsel (as well as their
8 support staffs).

9 2.12 Expert: a person with specialized knowledge or experience in a matter pertinent to
10 the litigation who has been retained by a Party or its counsel to serve as an expert witness or as a
11 consultant in this action and who is not a past or a current employee of a Party or of a competitor
12 of a Party's and who, at the time of retention, is not anticipated to become an employee of a Party
13 or a competitor of a Party's. This definition includes a professional jury or trial consultant
14 retained in connection with this litigation.

15 2.13 Professional Vendors: persons or entities that provide litigation support services
16 (e.g., photocopying; videotaping; translating; preparing exhibits or demonstrations; organizing,
17 storing, retrieving data in any form or medium; etc.) and their employees and subcontractors.

18 **3. SCOPE**

19 The protections conferred by this Stipulation and Order cover not only Protected Material
20 (as defined above), but also any information copied or extracted therefrom, as well as all copies,
21 excerpts, summaries, or compilations thereof, plus testimony, conversations, or presentations by
22 parties or counsel to or in court or in other settings that might reveal Protected Material.

23 **4. DURATION**

24 Even after the termination of this litigation, the confidentiality obligations imposed by this
25 Order shall remain in effect until a Designating Party agrees otherwise in writing or a court order
26 otherwise directs.

27 **5. DESIGNATING PROTECTED MATERIAL**

28 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each Party

1 or non-party that designates information or items for protection under this Order must take care to
 2 limit any such designation to specific material that qualifies under the appropriate standards. A
 3 Designating Party must take care to designate for protection only those parts of material,
 4 documents, items, or oral or written communications that qualify – so that other portions of the
 5 material, documents, items, or communications for which protection is not warranted are not
 6 swept unjustifiably within the ambit of this Order.

7 Mass, indiscriminate, or routinized designations are prohibited. Designations that
 8 are shown to be clearly unjustified, or that have been made for an improper purpose (e.g., to
 9 unnecessarily encumber or retard the case development process, or to impose unnecessary
 10 expenses and burdens on other parties), expose the Designating Party to sanctions.

11 If it comes to a Party's or a non-party's attention that information or items that it
 12 designated for protection do not qualify for protection at all, or do not qualify for the level of
 13 protection initially asserted, that Party or non-party must promptly notify all other parties that it is
 14 withdrawing the mistaken designation.

15 5.2 Manner and Timing of Designations. Except as otherwise provided in this Order
 16 (*see, e.g.*, second paragraph of section 5.2(a), below), or as otherwise stipulated or ordered,
 17 material that qualifies for protection under this Order must be clearly so designated before the
 18 material is disclosed or produced.

19 Designation in conformity with this Order requires:

20 (a) for information in documentary form (apart from transcripts of depositions
 21 or other pretrial or trial proceedings), that the Producing Party affix the legend
 22 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” on each
 23 page that contains protected material. If only a portion or portions of the material on a page
 24 qualifies for protection, the Producing Party also must clearly identify the protected portion(s)
 25 (*e.g.*, by making appropriate markings in the margins) and must specify, for each portion, the
 26 level of protection being asserted (either “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –
 27 ATTORNEYS’ EYES ONLY”).

28 A Party or non-party that makes original documents or materials available

1 for inspection need not designate them for protection until after the inspecting Party has indicated
2 which material it would like copied and produced. During the inspection and before the
3 designation, all of the material made available for inspection shall be deemed “HIGHLY
4 CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” After the inspecting Party has identified the
5 documents it wants copied and produced, the Producing Party must determine which documents,
6 or portions thereof, qualify for protection under this Order, then, before producing the specified
7 documents, the Producing Party must affix the appropriate legend (“CONFIDENTIAL” or
8 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”) on each page that contains
9 Protected Material. If only a portion or portions of the material on a page qualifies for protection,
10 the Producing Party also must clearly identify the protected portion(s) (e.g., by making
11 appropriate markings in the margins) and must specify, for each portion, the level of protection
12 being asserted (either “CONFIDENTIAL” or ‘HIGHLY CONFIDENTIAL – ATTORNEYS’
13 EYES ONLY”).

27 Transcript pages containing Protected Material must be separately bound
28 by the court reporter, who must affix to the top of each such page the legend "CONFIDENTIAL"

1 or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” as instructed by the Party or
 2 non-party offering or sponsoring the witness or presenting the testimony.

3 (c) for information produced in some form other than documentary, and for
 4 any other tangible items, that the Producing Party affix in a prominent place on the exterior of the
 5 container or containers in which the information or item is stored the legend “CONFIDENTIAL”
 6 or “HIGHLY CONFIDENTIAL -ATTORNEYS’ EYES ONLY.” If only portions of the
 7 information or item warrant protection, the Producing Party, to the extent practicable, shall
 8 identify the protected portions, specifying whether they qualify as “CONFIDENTIAL” or as
 9 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

10 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to
 11 designate qualified information or items as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL
 12 -ATTORNEYS’ EYES ONLY” does not, standing alone, waive the Designating Party’s right to
 13 secure protection under this Order for such material. If material is appropriately designated as
 14 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL- ATTORNEYS’ EYES ONLY” after the
 15 material was initially produced, the Receiving Party, on timely notification of the designation,
 16 must make reasonable efforts to assure that the material is treated in accordance with the
 17 provisions of this Order.

18 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

19 6.1 Timing of Challenges. Unless a prompt challenge to a Designating Party’s
 20 confidentiality designation is necessary to avoid foreseeable substantial unfairness, unnecessary
 21 economic burdens, or a later significant disruption or delay of the litigation, a Party does not
 22 waive its right to challenge a confidentiality designation by electing not to mount a challenge
 23 promptly after the original designation is disclosed.

24 6.2 Meet and Confer. A Party that elects to initiate a challenge to a Designating
 25 Party’s confidentiality designation must do so in good faith and must begin the process by
 26 conferring directly (in voice-to-voice dialogue; other forms of communication are not sufficient)
 27 with counsel for the Designating Party. In conferring, the challenging Party must explain the
 28 basis for its belief that the confidentiality designation was not proper and must give the

1 Designating Party an opportunity to review the designated material, to reconsider the
 2 circumstances, and, if no change in designation is offered, to explain the basis for the chosen
 3 designation. A challenging Party may proceed to the next stage of the challenge process only if it
 4 has engaged in this meet and confer process first.

5 6.3 Judicial Intervention. A Party that elects to press a challenge to a confidentiality
 6 designation, after considering the justification offered by the Designating Party, may file and
 7 serve a motion under Civil Local Rule 7 (and in compliance with Civil Local Rule 79-5, if
 8 applicable) that identifies the challenged material and sets forth in detail the basis for the
 9 challenge. Each such motion must be accompanied by a competent declaration that affirms that
 10 the movant has complied with the meet and confer requirements imposed in the preceding
 11 paragraph and that sets forth with specificity the justification for the confidentiality designation
 12 that was given by the Designating Party in the meet and confer dialogue.

13 The burden of persuasion in any such challenge proceeding shall be on the
 14 Designating Party. Until the Court rules on the challenge, all parties shall continue to afford the
 15 material in question the level of protection to which it is entitled under the Producing Party's
 16 designation.

17 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

18 7.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed
 19 or produced by another Party or by a non-party in connection with this case only for prosecuting,
 20 defending, or attempting to settle this litigation. Such Protected Material may be disclosed only
 21 to the categories of persons and under the conditions described in this Order. When the litigation
 22 has been terminated, a Receiving Party must comply with the provisions of section 11, below
 23 (FINAL DISPOSITION).

24 Protected Material must be stored and maintained by a Receiving Party at a
 25 location and in a secure manner that ensures that access is limited to the persons authorized under
 26 this Order.

27 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise
 28 ordered by the Court or permitted in writing by the Designating Party, a Receiving Party may

1 disclose any information or item designated CONFIDENTIAL only to:

2 (a) the Receiving Party's Outside Counsel of record in this action, as well as
3 employees of said Counsel to whom it is reasonably necessary to disclose the information for this
4 litigation and who have signed the "Agreement to Be Bound by Protective Order" that is attached
5 hereto as Exhibit A;

6 (b) the officers, directors, and employees (including House Counsel) of the
7 Receiving Party to whom disclosure is reasonably necessary for this litigation and who have
8 signed the "Agreement to Be Bound by Protective Order" (Exhibit A);

9 (c) experts (as defined in this Order) of the Receiving Party to whom
10 disclosure is reasonably necessary for this litigation and who have signed the "Agreement to Be
11 Bound by Protective Order" (Exhibit A);

12 (d) the Court and its personnel;

13 (e) court reporters, their staffs, and professional vendors to whom disclosure is
14 reasonably necessary for this litigation and who have signed the "Agreement to Be Bound by
15 Protective Order" (Exhibit A);

16 (f) during their depositions, witnesses in the action to whom disclosure is
17 reasonably necessary and who have signed the "Agreement to Be Bound by Protective Order"
18 (Exhibit A). Pages of transcribed deposition testimony or exhibits to depositions that reveal
19 Protected Material must be separately bound by the court reporter and may not be disclosed to
20 anyone except as permitted under this Stipulated Protective Order;

21 (g) the author of the document or the original source of the information, or
22 persons who were recipients of the document.

23 7.3 Disclosure of "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY"
24 Information or Items. Unless otherwise ordered by the court or permitted in writing by the
25 Designating Party, a Receiving Party may disclose any information or item designated "HIGHLY
26 CONFIDENTIAL -ATTORNEYS' EYES ONLY" only to:

27 (a) the Receiving Party's Outside Counsel of record in this action, as well as
28 employees of said Counsel to whom it is reasonably necessary to disclose the information for this

1 litigation and who have signed the "Agreement to Be Bound by Protective Order" that is attached
2 hereto as Exhibit A;

3 (b) Experts (as defined in this Order) (1) to whom disclosure is reasonably
4 necessary for this litigation, (2) who have signed the "Agreement to Be Bound by Protective
5 Order" (Exhibit A);

6 (c) the Court and its personnel;

7 (d) court reporters, their staffs, and professional vendors to whom disclosure is
8 reasonably necessary for this litigation and who have signed the "Agreement to Be Bound by
9 Protective Order" (Exhibit A); and

10 (e) the author of the document or the original source of the information.

11 **8. PROTECTED MATERIAL SUBPOENAED OR
12 ORDERED PRODUCED IN OTHER LITIGATION**

13 If a Receiving Party is served with a subpoena or an order issued in other litigation that
14 would compel disclosure of any information or items designated in this action as
15 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY," the
16 Receiving Party must so notify the Designating Party, in writing (by e-mail or fax, if possible)
17 immediately and in no event more than three court days after receiving the subpoena or order.
18 Such notification must include a copy of the subpoena or court order.

19 The Receiving Party also must immediately inform in writing the Party who caused the
20 subpoena or order to issue in the other litigation that some or all the material covered by the
21 subpoena or order is the subject of this Protective Order. In addition, the Receiving Party must
22 deliver a copy of this Stipulated Protective Order promptly to the Party in the other action that
23 caused the subpoena or order to issue.

24 The purpose of imposing these duties is to alert the interested parties to the existence of
25 this Protective Order and to afford the Designating Party in this case an opportunity to try to
26 protect its confidentiality interests in the court from which the subpoena or order issued. The
27 Designating Party shall bear the burdens and the expenses of seeking protection in that court of its
28 confidential material – and nothing in these provisions should be construed as authorizing or

1 encouraging a Receiving Party in this action to disobey a lawful directive from another court.

2 **9. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

3 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected
4 Material to any person or in any circumstance not authorized under this Stipulated Protective
5 Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the
6 unauthorized disclosures, (b) use its best efforts to retrieve all copies of the Protected Material,
7 (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of
8 this Order, and (d) request such person or persons to execute the "Acknowledgment and
9 Agreement to Be Bound" that is attached hereto as Exhibit A.

10 **10. FILING PROTECTED MATERIAL**

11 Without written permission from the Designating Party or a court order secured after
12 appropriate notice to all interested persons, a Party may not file in the public record in this action
13 any Protected Material. A Party that seeks to file under seal any Protected Material must comply
14 with Civil Local Rule 79-5.

15 **11. FINAL DISPOSITION**

16 Unless otherwise ordered or agreed in writing by the Producing Party, within sixty days
17 after the final termination of this action, each Receiving Party must either destroy or return all
18 Protected Material to the Producing Party. As used in this subdivision, "all Protected Material"
19 includes all copies, abstracts, compilations, summaries or any other form of reproducing or
20 capturing any of the Protected Material. Whether the Protected Material is returned or destroyed,
21 the Receiving Party must submit a written certification to the Producing Party (and, if not the
22 same person or entity, to the Designating Party) by the sixty day deadline that identifies (by
23 category, where appropriate) all the Protected Material that was returned or destroyed and that
24 affirms that the Receiving Party has not retained any copies, abstracts, compilations, summaries
25 or other forms of reproducing or capturing any of the Protected Material. Notwithstanding this
26 provision, Counsel are entitled to retain an archival copy of all pleadings, motion papers,
27 transcripts, legal memoranda, correspondence or attorney work product, even if such materials
28 contain Protected Material. Any such archival copies that contain or constitute Protected Material

1 remain subject to this Protective Order as set forth in Section 4 (DURATION), above.

2 **12. MISCELLANEOUS**

3 12.1 Right to Further Relief. Nothing in this Order abridges the right of any person to
4 seek its modification by the Court in the future.

5 12.2 Right to Assert Other Objections. By stipulating to the entry of this Protective
6 Order no Party waives any right it otherwise would have to object to disclosing or producing any
7 information or item on any ground not addressed in this Stipulated Protective Order. Similarly,
8 no Party waives any right to object on any ground to the use in evidence of any of the material
9 covered by this Protective Order.

10 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

11
12 DATED: July 23, 2009

13 BARBARA J. HART
14 DAVID C. HARRISON
15 LOWEY DANNENBERG COHEN & HART, P.C.
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14 *Counsel for Defendant Lisa Berry*
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16

17 **ATTESTATION PURSUANT TO GENERAL ORDER 45**
18

19 I, Willem F Jonckheer, am the ECF User whose identification and password are being
20 used to file this Amended Stipulated Protective Order. I hereby attest that concurrence in the
21 filing of this document along with the concurrently lodged proposed order has been obtained from
22 the other signatory.
23

24 Dated: April 6, 2009 SCHUBERT JONCKHEER KOLBE & KRALOWEC LLP
25

26 By: _____ /s/
27 Willem F. Jonckheer
28

Local Counsel for Lead Plaintiff

29
30 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**
31

32 DATED: 7/31/09
33

34 
35 PATRICIA V. TRUMBULL
36 United States Magistrate Judge
37
38

EXHIBIT A

ACKNOWLEDGEMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of _____
[print or type full address], declare under penalty of perjury that I have read in its entirety and
understand the Stipulated Protective Order that was issued by the United States District Court for
the Northern District of California on _____, 2008 in the case of *In re Juniper
Networks, Inc. Securities Litigation*, No. C-06-04327-JW. I agree to comply with and to be
bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that
failure to so comply could expose me to sanctions and punishment in the nature of contempt. I
solemnly promise that I will not disclose in any manner any information or item that is subject to
this Stipulated Protective Order to any person or entity except in strict compliance with the
provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Northern District of California for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action.

I hereby appoint _____ [print or type full name] of
_____ [print or type full address and telephone number]
as my California agent for service of process in connection with this action or any proceedings
related to enforcement of this Stipulated Protective Order.

Date:

City and State where sworn and signed: _____

Printed name _____ [printed name]

Signature: _____ [signature]